

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7549

Petition of Central Vermont Public Service )  
Corporation and Central Vermont Public Service )  
Corporation-East Barnet Hydroelectric, Inc., )  
Pursuant to 30 V.S.A. § 108, to enter into two new )  
Letter of Credit and Reimbursement Agreements )  
and Guaranty with TD Banknorth, N.A., regarding )  
Millstone Pollution Bonds and East Barnet )  
Hydroelectric Bonds )

Order entered: 9/17/2009

**I. INTRODUCTION**

On July 16, 2009, Central Vermont Public Service Corporation ("CVPS" or "the Company") and Central Vermont Public Service Corporation-East Barnet Hydroelectric, Inc. ("CV-EBH" and collectively where appropriate, "the Petitioners") filed a petition pursuant to 30 V.S.A. § 108 with the Vermont Public Service Board ("Board") seeking approval to enter into two new three-year Letter of Credit and Reimbursement Agreements (collectively, the "Agreements"), and issue a new Guaranty under a new East Barnet Reimbursement Agreement, with TD Banknorth, N.A. ("Banknorth"). The new Agreements and new Guaranty would replace two of the existing Letters of Credit and two of the existing Reimbursement Agreements with RBS Citizens, N.A., successor by merger to Citizens Bank of Massachusetts ("Citizens Bank"). The purpose of the Agreements is to secure payment of existing industrial-development bonds used to fund CVPS's investments in the East Barnet hydroelectric facility ("East Barnet bonds") and the Millstone Nuclear Plant ("Millstone bonds"). In March 2009, Citizens Bank was downgraded by Standard & Poor's ("S&P") to "A-" thus adversely affecting the credit rating of the Bonds and necessitating the proposed replacement of Citizens Bank with Banknorth as the counterparty. The two Letters of Credit to be replaced are due to expire November 30, 2009. The petition was supported by the testimony of Pamela J. Keefe, the Company's Chief Financial Officer and by accompanying exhibits.

On August 28, 2009, the Vermont Department of Public Service ("Department") informed the Board that it had reviewed the petition and supporting documentation. Based on its review, the Department recommended that the Board find the petition to be consistent with the general good without hearing or further investigation. On September 11, 2009, the Department also determined that the Petitioners' filing was consistent with the *Vermont Electric Plan*, pursuant to 30 V.S.A. § 202(f).

Based on the evidence presented and the Department's recommendation, I find that approval for CVPS to enter into two new Agreements and a new Guaranty with Banknorth is appropriate and that such approval may occur without hearing or further investigation. The proposed replacement of the existing Agreements and Guaranty with Citizens Bank will improve the overall financial stability of the Petitioners by substituting the credit support of a lower-rated institution, Citizens Bank, with that of a higher-rated institution, Banknorth. By replacing the Agreements, the Petitioners will avoid higher interest rate charges on the Bonds.

## **II. FINDINGS**

In accordance with 30 V.S.A. § 8, I hereby report the following findings and conclusions.

1. CVPS and its subsidiary, CV-EBH, are companies as defined by 30 V.S.A. § 201, and are subject to the jurisdiction of the Board pursuant to 30 V.S.A. § 203. Petition at 1.
2. CVPS and CV-EBH request Board approval to enter into two new Letters of Credit and Reimbursement Agreements, and issue a new Guaranty under a new East Barnet Reimbursement Agreement, with Banknorth to replace two of the existing Letters of Credit and two of the Reimbursement Agreements with Citizens Bank. The two existing letters of credit expire on November 30, 2009. The general terms and cost of the new Agreements are outlined in the "Proposal to Provide Direct Pay Letter of Credit," dated June 16, 2009, provided as CVPS Exhibit PJK-1 (the "Term Sheet"). Petition at 2; exh. PJK-1.
3. CVPS currently has a total of three existing Agreements with Citizens Bank. One of the Agreements, which is not part of this request, is related to the New Hampshire Industrial Authority Bonds, generally referred to as the "Seabrook Bonds," which will be due and payable on December 1, 2009. CVPS will repay the Seabrook Bonds with available capital at maturity

thus terminating the related Agreement and leaving only the two remaining Agreements that are the subject of this Petition. Keefe pf. at 3.

4. As of November 2007, Citizens Bank was rated "AA-" by S&P and was generally considered a "Tier 1" bank by investors and regulators. On March 23, 2009, S&P downgraded Citizens Bank to "A-" effectively lowering the bank to a "Tier 2" status. This drop from Tier 1 by Citizens Bank caused the floating interest rate on the Bonds to increase due to investors' perception that support for the Bonds is now less secure. Prior to the March 2009 Citizens Bank downgrade, the monthly market rate for CVPS's bonds was less than 1% and as low as 0.55%. The first month following the downgrade, CVPS's interest rate spread increased by 300 basis points ("bps") and then settled at 290 bps one month later. As of July 9, 2009, CVPS's rate spread was in the range of 200+ bps. As a result, CVPS proposes to replace Citizens Bank with a Tier 1 bank in order to obtain a lower rate of interest. Banknorth is a Tier 1 bank and CVPS has opted to retain that institution as the counterparty for the new Agreements. Keefe pf. at 3-5.

5. CVPS estimates the cost to issue and maintain the Agreements at Banknorth over a three-year period to be \$950,000. In comparison, maintaining the Agreements at Citizens Bank for the same time period, using a proxy rate of 250 bps, would cost an estimated \$1,362,000, resulting in a net savings with Banknorth of \$412,000. Using a proxy rate of 200 bps, the net savings is estimated to be \$252,000. Keefe pf. at 5.

6. The Company originally solicited eight Tier 1 banks, including Banknorth, for the issuance of the Agreements. Since CVPS's capital needs were considered too small to be attractive by most of the banks queried, only Banknorth and one other bank responded. Banknorth's offer resulted in lower three-year costs than the other bank. Keefe pf. at 5.

7. The Millstone bonds were previously addressed in Docket Nos. 5043, 7002, 7096, 7216, 7338, and 7465. These bonds were issued by the Connecticut Development Authority pursuant to an Indenture dated December 1, 1985, in the principal amount of \$5,000,000 to mature on December 1, 2015. The purpose of the bond issue was to fund certain pollution-control devices at the Millstone III nuclear project, in which CVPS has an ownership interest. The Millstone bonds are currently secured by a letter of credit issued by Citizens Bank in the amount of \$5,133,562 (including \$133,562 of interest). CVPS intends to replace Citizens Bank with

Banknorth as the issuer of this letter of credit. The Company's obligation to reimburse Citizens Bank in the event of a draw on the letter of credit is contained in the Reimbursement Agreement with Citizens Bank, dated March 1, 2002, as approved in Docket No. 5043, and as amended and approved in that Docket and Docket Nos. 7002, 7096, 7216, 7338, and 7465. CVPS's future obligation to reimburse Banknorth in the event of a draw on the proposed Banknorth letter of credit will be contained in the Reimbursement Agreement with Banknorth. Keefe pf. at 7-8.

8. The East Barnet bonds were previously addressed in Docket Nos. 4817, 7002, 7096, 7216 and 7338. These bonds were issued by the Vermont Industrial Development Authority pursuant to an Indenture dated December 1, 1983, in the principal amount of \$5,800,000 to mature on December 1, 2013. The purpose of the bond issue was to fund development of a hydroelectric project owned by Central Vermont Public Service Corporation-East Barnet Hydroelectric, Inc., a wholly-owned subsidiary of the Company. The East Barnet bonds are currently secured by a letter of credit issued by Citizens Bank in the amount of \$6,015,215 (including \$215,275.35 of interest). CV-EBH's obligation to reimburse Citizens Bank in the event of a draw on the letter of credit is set forth in the Reimbursement Agreement with Citizens Bank, dated March 1, 2002, as approved in Docket No. 4817 and as amended and approved in that docket and in Docket Nos. 7002, 7096, 7216, 7338, and 7465. CV-EBH's obligations to Citizens Bank are guaranteed by CVPS pursuant to the Guaranty, dated March 1, 2002, made by CVPS in favor of Citizens Bank, as approved in Docket Nos. 4817, 7002, 7096, 7216, 7338, and 7465, and renewed annually. CV-EBH's future obligation to reimburse Banknorth in the event of a draw on the proposed Banknorth letter of credit will be contained in the Reimbursement Agreement with Banknorth, and would be secured by a similar Guaranty by CVPS in favor of Banknorth. Keefe pf. at 8-9.

9. The face amount of the two new Agreements with Banknorth will total \$11,148,863.84. CVPS has chosen a term of three years with an option to renew. The upfront fee charged by Banknorth is 25 bps, or approximately \$28,000. The ongoing "Facility Fee" is 250 bps per year, or approximately \$279,000 per year. This fee is subject to increase or decrease by 10 bps based upon each downgrade or upgrade of CVPS's Corporate Credit Rating. In the event of a draw on

the Agreements, CVPS would be required to pay interest at a rate of Prime<sup>1</sup> plus 1.5% for the first 30 days, 3.0% for days 31-60, and 4.0% for days after day 60, until the bonds are successfully remarketed to investors. These same rates would also apply in the event CVPS failed to reimburse Banknorth for a draw made to pay the monthly interest due on the bonds. Keefe pf. at 9-10; exh. PJK-1.

10. The new Agreements will be unsecured. This will benefit the Company by freeing up the PP, QQ, and RR First Mortgage Bonds currently securing the Reimbursement Agreements with Citizens Bank, essentially providing CVPS with \$16 million in additional borrowing capacity after the new Agreements with Banknorth are closed. Keefe pf. at 10.

11. As CVPS has done in its prior financing dockets before the Board, it has agreed to promptly inform the Board and Department of any adverse changes in any material terms of the transaction, and to file a set of the principal documents after the closing. Keefe pf. at 11.

12. The new Agreements and the Guaranty are consistent with the *Vermont Electric Plan*. Keefe pf. at 11-12; Department 202(f) determination letter of September 11, 2009.

13. Obtaining the new Agreements from Banknorth maintains the two underlying bonds, which, with Banknorth's credit rating, provides the Company with low-cost, long-term capital and financial stability. In addition, the security provided by the Agreements, will restore the rating of the two underlying bonds and will avoid the requirement to offer to repurchase the outstanding bonds, all of which contribute to the financial stability of the Company. Finally, the release of the PP, QQ, and RR First Mortgage Bonds to CVPS's treasury will improve the Company's borrowing capacity. Keefe pf. at 12.

14. On August 3, 2009, the CVPS Board of Directors approved the proposed transactions. On August 26, 2009, CV-EBH's Board of Directors approved the transactions. CVPS letter dated 8/27/09; exh. PJK-2 and exh. PJK-3.

15. The Company requests Board approval by mid to late September, but no later than September 24, 2009, to allow for a closing before October 1, 2009, so that the two new Agreements are in place within the time frame required by one of the two underlying Indentures.

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1. The Prime Rate of Interest as published in the "Money Rates" section of the *Wall Street Journal*, currently is 3.25%.

Without the Agreements in place, the Company would be required to redeem the two remaining bonds which these letters of credit secure. Keefe pf. at 6.

### **III. DISCUSSION & CONCLUSION**

Based on the evidence, I conclude that CVPS's request to replace two existing Letters of Credit and Reimbursement Agreements with Citizens Bank, plus a Guaranty relating to its East Barnet bonds, with two new Agreements and a new Guaranty with Banknorth, would be consistent with the general good of the state. Obtaining the Agreements will allow CVPS to continue to secure its Millstone bonds and East Barnet bonds at a lower cost, and free up additional borrowing capacity since the Agreements would be unsecured, thus contributing towards maintaining the Company's financial stability. By entering into the Agreements, CVPS would also avoid the requirement of having to repurchase the bonds. Thus, I recommend that the Board find that approval of the petition is consistent with the general good of the state and issue an order to that effect.

The parties have waived their rights to file exceptions and present arguments under 3 V.S.A. § 811. Therefore, the proposal for decision has not been served on the parties.

Dated at Montpelier, Vermont this 14<sup>th</sup> day of September, 2009.

s/Jay E. Dudley  
Jay E. Dudley  
Hearing Officer

#### **IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings, Conclusion and recommendations of the Hearing Officer are adopted.
2. The terms and conditions proposed by Central Vermont Public Service Corporation ("CVPS") for entering into two new Letters of Credit and Reimbursement agreements, and a new Guaranty under the CV- East Barnet Hydroelectric, Inc. bonds, with TD Banknorth, N.A., for terms of three years each with options to renew, are consistent with the general good of the state.
3. This Order does not constitute approval of any particular capital or operating expenditure nor the underlying capital structure that Central Vermont Public Service Corporation may implement. Nothing in this approval shall preclude the Department of Public Service ("Department") or any other party, or the Public Service Board ("Board"), from reviewing and/or challenging those expenditures and/or CVPS's resulting capital structure in any future proceeding.
4. Upon request, CVPS shall provide the Board and the Department with a complete set of final executed documents when they are available.

Dated at Montpelier, Vermont, this 17<sup>th</sup> day of September, 2009.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: September 17, 2009

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*